

Worksession

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Jan B. Davis; Councilwoman Robin L. Cape; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; Councilman William A. Russell Jr.; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Brownie W. Newman

BUDGET REVIEW

- Budget Director Tony McDowell said that the second Fiscal Year (FY) 2008-09 budget worksession is scheduled for May 20, 2008.

Mr. McDowell presented the following overview of the FY 2008-09 Recommended Budgets for the City's seven Enterprise Funds, as well as provided City Council with further information on the proposed FY 2008-09 General Capital Improvement Program.

Water Resources Fund:

- The FY 2008-09 budget includes a 4% increase in water rates which will generate approximately \$800,000 in revenue.
- The Capital Outlay category includes funding for mandatory capital improvement projects, rolling stock, and small capital equipment. The budget includes a \$3.5 million fund balance appropriation to fund the Brevard Road N.C. Dept. of Transportation project.
- The debt service for FY 2008-09 is 21% of the total budget. The increase in debt service is due to the recent issuance of \$40 million in revenue bonds for capital improvements.

Transit Services Fund

- Increases in State grant funding are offset by a \$160,000 decrease in funding from the federal government. As a result the federal/state grant revenue category shows almost no increase over FY 2007-08.
- Operating costs show a \$340,000 increase due to higher contract costs for labor and increasing fuel prices.
- As a result of the higher operating costs and the lack of growth in grant funding, the subsidy required from the General Fund shows an increase of \$290,000. Also, in order to balance the Transit Fund budget, \$100,000 that had been previously set aside for capital improvements to the transit system will be transferred back to support operations. The proposed budget also continues the \$248,116 transfer from the Parking Services Fund.

Parking Services Fund

- Debt service on the existing decks is being paid off in FY 2007-08. The FY 2008-09 budget includes \$500,000 to pay what is expected to be a half-year's debt service payment on a new \$18.5 million Biltmore Avenue parking deck, which is budgeted in the Parking Fund's Capital Improvement Program (CIP). The deck will be financed with a combination of tax exempt and taxable bonds.
- The Parking Fund's CIP also includes \$532,000 to fund major repair and restoration work on the Wall Street garage, which is now twenty years old. This project will be funded with a transfer from the Parking operating fund. The Parking operating fund will also provide \$50,000 to fund wayfinding signs and \$34,000 for security camera in the garages.
- The 2008-09 budget continues the \$248,116 transfer to the Transit Services Fund.
- Approximately \$460,000 in the FY 2007-08 budget is set aside to go to fund balance for future parking deck construction costs.

Stormwater Utility Fund

- The revenue budget for utility charges is adjusted to reflect actual collections from FY 2006-07.
- Otherwise, the budget reflects a continuation of existing programs & services.

Civic Center Fund

- The budget for operating revenue is adjusted upward by 11.6% to reflect revenue trends observed over the last two fiscal years.
- Operating costs were kept flat to help balance the budget.
- With operating revenues adjusted upward and operating costs kept flat, the General Fund subsidy was reduced by \$33,209.
- Otherwise, the budget represents a continuation of existing programs & services.

Festivals Fund

- A general fund subsidy of \$162,675 is included to support the costs of the Festivals staff. This subsidy is reduced from FY 2007-08 because more cultural arts staff is being directly accounted for in the General Fund.
- Otherwise, the budget represents a continuation of existing programs & services.

Golf Fund

- The proposed budget includes additional revenue from increases to the passholder fees and greens fees that Council approved in April.
- The proposed expenditure budget includes cost increase for personnel and utilities.
- Even with the Council-approved fee increases, a \$75,701 General Fund subsidy is required to balance the FY 2008-09 budget.

Mr. McDowell then reviewed the enterprise fund summary.

At the May 13 budget worksession, Council requested more information on the proposed FY 2008-09 General Capital Improvement Program. He reviewed the following Proposed Budget Document that provides greater detail on the Capital Improvement Projects (CIP) that staff has recommended for funding in FY 2008-09.

- The proposed CIP includes \$1.8 million in funding for vehicle replacement. This level of funding will allow for the replacement of approximately 16 vehicles including an aerial ladder in the Fire Department; as well as vehicles in the Police, Public Works, and Parks Departments. The City will take advantage of lower interest rates to finance all of the vehicle replacements that are budgeted in the general fund in FY 2008-09.
- The technology improvements category includes \$535,000 of which \$335,000 will go toward the ongoing replacement of public safety radios. The remaining \$200,000 will be used to fund technology improvements to aid the development review process. The funding for these improvements will come from the development review technology fee that Council approved in April. The technology improvements funded with this fee will allow the City to serve the development community better by offering, for example, paperless systems in the future. This will benefit the development community fiscally in the future, serving to reduce operational costs on a project -- such as printing out multiple blueprints for submittal to City staff.
- The facility & equipment maintenance category includes \$535,000. Of this amount, \$225,000 will be used for ongoing City-wide general building needs. Another \$200,000 will go to enhance security at City-owned facilities. The facility & equipment maintenance category also includes \$48,000 to replace old equipment used in the production of programming for the City's government television. Funding for this item comes from the PEG revenue that is received as a part of the video (former cable franchise) services taxes collected by the State and shared with municipalities.
- The FY 2008-09 CIP continues the City's commitment to provide \$400,000 annually to fund projects at the Civic Center.

Projects slated for next fiscal year include upgrades to arena seating as well as, replacement of the portable stage, emergency lighting generator, and chair storage.

- The CIP includes an ongoing contribution of \$952,300 to the Street & Sidewalk Fund for maintenance & repair of existing streets & sidewalks.
- The CIP includes funding for two major land purchases, one in Haw Creek and the other for the Beaucatcher Overlook Park. City Council previously voted to authorize acquisition of property in the Haw Creek area for park purposes and a greenway link to the Blue Ridge Parkway and Mountain to Sea trail. The cost of the property is \$750,000. The City will fund one-third of the purchase price (\$250,000) with Buncombe County and the neighborhood association funding the remaining amount. The CIP also includes funding for the second installment payment for the purchase of land for the Beaucatcher Overlook Park. The exact amount that the City will owe toward the \$900,000 payment will depend upon the amount of private funding raised by the Trust for Public Land. The CIP provides budget authorization up to \$900,000 for this payment. Funding for both of these land purchases will come from proceeds that the City expects to receive in FY 2008-09 from the sale of City-owned property.
- The Parks & Recreation CIP includes \$345,500 for Phase II of the Reed Creek Greenway project. This funding, along with the \$400,000 NCDOT grant that Council approved at their May 13th meeting, will allow for completion of this phase of the Reed Creek Greenway project.

In summary, regarding capital improvements (1) fleet management - \$1,793,600 (a) replaces 25-year old fire aerial ladder: \$1,100,000; and (b) increased use of financing; (2) street and sidewalk maintenance - \$952,300 (a) \$200,000 for sidewalks; and (b) \$752,300 for paving and street maintenance; (3) Civic Center - \$400,000 (a) \$225,000 arena seating; (b) \$125,000 replace portable stage; (c) \$40,000 emergency generator; and (d) \$10,000 replace chair storage; (4) Reed Creek Greenway Phase II - \$345,500 (a) coupled with \$400,000 N.C. Dept. of Transportation grant approved on May 13, 2008; and (b) will complete Phase II (from the corner of Broadway and Cauble Street to Broadway and Magnolia Avenue); (5) Overlook Park land purchase - \$900,000 (a) 2nd installment payment; (b) City payment amount dependent upon the amount of private funding raised by the Trust for Public Land; and (6) Haw Creek land purchase - \$250,000 (a) for park and greenway link to the Blue Ridge Parkway and Mountains to Sea Trail; (b) cost of the property is \$750,000 (City funding one-third of the purchase price, with Buncombe County and the neighborhood association funding remaining amount); and (c) option exists to split into two \$125,000 payments.

Staff recommends that Council review the FY 2008-09 budget information for the City's seven Enterprise Funds and the additional information provided on the General CIP; and provide direction on upcoming budget worksession agendas.

Throughout considerable discussion, Mr. McDowell, Chief Financial Officer Ben Durant and other Department Directors responded to various questions/comments from Council (noting that questions that could not be answered would be provided to Council at their next budget review). Some questions/comments were, but were not limited to: are the projects in the \$40 Million revenue bond on track given increased construction costs; request for update on the status of the Civic Center roof (with information being shared with the Civic Center Commission as well) to include (1) the timeline for the Civic Center roof as it relates to when the Council first started the process up to the present date, (2) the cost of a green roof on the Civic Center vs. a traditional roof, (3) minutes of the City Council meeting where Council voted on the engineering study (which had to be done to determine the structural integrity of the roof) to include a cost estimate for a green room, and (4) how much of the engineering costs was the green roof effort opposed to only determining the structural integrity of the roof; regarding Overlook Park land purchase, (1) reasoning behind staff's \$900,000 figure; (2) request for budget to more accurately reflect the City's commitment; (3) minutes and resolution of the Council meeting where this was approved, (4) list of finances associated with the Overlook Park project, (5) payment schedule of the three-year process, (6) confirmation that Overlook Park will be acquired by the neighborhood association and transferred to the City of Asheville with restrictions, and (7) investigate if the City has the option of paying \$125,000 this year; is the City actively looking at programs for increasing summer ridership; is the Civic Center Garage repairs in this fiscal year's budget; explanation of the pattern of significant increases in staff wages in the Enterprise Funds; are temporary seasonal employees counted in the full-time employee number and are their salaries included in the salaries and wages line item; are market adjustment increases across the board for all employees; positions how does the \$200,000 for sidewalks and \$752,300 for paving and street maintenance in the CIP compare to this year's investment; reason for less money in this year's budget for parks and greenways; how much do we have right now in the Parking Fund to invest in a parking deck; is the \$40 Million in revenue bonds in a variable or fixed rate; is the proposed 4% water rate increase a one-year increase or will there be multi-year increases; how can we convey to the community the list of projects from the \$40 Million revenue bonds in order to show them how their investment is being used in repairing the water system; suggestion of sending a story to the newspaper with a picture attached showing crews working to upgrade our water infrastructure; reaffirmation of the City's commitment to keep the community informed; is the City continually looking at cost saving measures between the Public Works Department and the Water Resources Department projects; request for graph of how much we lost in federal investment in the transit system; why is there a decrease in the Parking Services line item in the Enterprise Fund summary; what is status of conversations with individuals about parking; will the City finance the full \$1,793,600 in Capital Improvements for fleet replacement and if so, how much will that actually impact the

budget; how many miles of sidewalk with \$200,000 produce; confirmation that the loss of one sidewalk crew is only positions and no one will be laid off; consensus that all Enterprise Funds that have capital outlay expenditures, be listed with an addendum showing the breakdown; consensus that the CIP (which only shows the current budget year, next fiscal year and 5 years out from that), show more history (perhaps two years); consensus on information whether we at the state maximum for the motor vehicle license fee and the rental vehicle fee, and request for a comparison with Buncombe County on those fees as well; has the Civic Center capital improvement projects for 2008-09 been reviewed by the Civic Center Commission; and consensus for Council deliberation at a future worksession, after this budget is adopted, about what we can do to make sure that the trend of magnifying salaries and wages do not get out of hand in order to be fair to taxpayers and City staff.

Commercial and Enterprise Options for Solid Waste Collection

Commercial Solid Waste Collection

Ms. Wendy Simmons, Solid Waste Manager, said that the City of Asheville provides once per week solid waste collection services via 95 gallon roll carts to all residents and businesses desiring this service each week. The only exception to this rule is that residents and businesses in the central business district are not serviced by 95 gallon roll carts due to space restrictions for collection equipment. As an alternative, these residents and businesses place their trash to the curb in bags or a trash can of their choosing that meets ordinance requirements.

Businesses desiring additional collections or a different method of collection than that provided by the City currently contract these services with private contractors. Multiple private contractors provide solid waste collection and disposal services throughout the City. Some of these contractors are national companies and others are regional or local enterprises.

Most cities in North Carolina do not provide services specifically for commercial customers; however, several cities are competing with private enterprises by providing commercial solid waste collection services. In December 2005, the North Carolina League of Municipalities reported in "What are we doing with garbage?" that 16.2% of cities collected commercial waste in 2005. Listed are 2008 data from a few NC cities providing commercial collection via dumpsters.

Municipality	Accounts	Trucks	Once per Week Collection Fee	Extra Collection Fee	Dumpster Rental Fee
Durham	~1,200	8 + spares	\$85/month	\$20.50	\$26.50
Greensboro	3,386	15 + spares	\$60/month	\$50.00	NA
Hickory	250	3 + spare	\$116/month	\$23.00	NA
Statesville	395	3 + spare	\$41.34/week	\$41.34	NA

If the City of Asheville were to expand collection services to include commercial dumpster collection services, several critical factors must be examined. These factors include:

- Demand or need for additional commercial service
- Number of accounts to be serviced
- Collection frequency
- Cost for equipment
- Cost for staff
- Disposal costs
- Fee schedule for services

Before pursuing commercial collection services, the City would need to conduct a careful analysis of current commercial collection practices within the City and across the state. The next step after conducting surveys and data collection efforts would be to develop a business plan that would include a thorough approach to implementing commercial collections in the City.

Preliminary data can only be provided at this time regarding the benefits and costs of the City beginning a commercial collection program. Several options for pursuing commercial collections are presented.

Option 1: The City could issue a sole franchise to itself for the provision of all commercial solid waste services within the city limits. This would entail a significant infrastructure conversion from the private sector to the City and could obligate the City to reimburse the private enterprises for economic loss (according to the School of Government). Such a business plan would be unprecedented in NC. The scope of the services offered by the City under this option would be wide and would entail highly niche

services to meet the demand of all commercial clients. This could potentially entail multi-day collections, specialized collection containers, recycling collection services, medical waste collections, and other highly specialized services. Although this approach would require a substantial capital investment to initiate, it would establish the necessary economy of scale to make the commercial collection program highly efficient.

Option 2: The City could join the current commercial services market as an additional collection service provider. This approach would require the City to market itself aggressively to establish itself as a viable alternative to private collection companies. This approach would allow the City to gradually gain a market share with a lower initial capital investment than Option 1. However, the City would be fighting to gain clients with established contracts with private enterprises and could potentially never reach the economy of scale necessary to make the program truly efficient or profitable.

Option 3: The City could pursue issuing franchise agreements to commercial solid waste collectors with an associated licensing fee. Establishing a franchise fee for commercial solid waste collectors is not a customary practice in NC, but it is allowed under NC law. This practice is much more common on a national scale especially for larger cities. By pursuing this option, the City would still maintain oversight into the collection of commercial wastes without competing with existing private enterprises or actually providing commercial collections. To pursue this option, the City would need to develop an ordinance defining the franchise license process for solid waste commercial collectors in accordance with GS 160A 319. The ordinance would require any company that collects solid waste from commercial properties within the city limits to obtain a special license and pay an annual fee as a franchise fee. The fee could be established as a set fee or it could be tied directly to a company's annual revenues.

Estimating the costs of Options 1, 2, and 3 can only be done with preliminary data as expressed earlier. Costs of pursuing Option 3 are administrative in nature and minimal in comparison with capital/personnel startup costs for Options 1 or 2. As a framework for the costs of pursuing Option 1, 2, and 3, the following tentative costs are delineated:

Option 1-City is Sole Franchise:

Estimated costs for Option 1, assuming 4,200 commercial accounts:

Initial capital investment

- Equipment:
 - \$4,200,000 (20 collection trucks) = \$840,000 per year (5-year lifespan)
 - \$560,000 (7 container trucks) = \$112,000 per year (5-year lifespan)
 - \$3,780,000 (4,200 dumpsters) = \$540,000 per year (7-year lifespan)

Total Equipment Costs: \$1,492,000 per year

Annually reoccurring expenses

- Salaries: \$1,200,000/year (30 drivers)
- Administration: \$399,000/year
- Maintenance: \$1,750,000/year
- Tip Fees: \$4,200,000/year

Total Annual Reoccurring Expenses: \$7,549,000 per year

Option 1	
Startup Capital Cost	\$8,540,000 + ~\$2,500,000 (estimated economic loss to private companies in accordance with NCGS)
Total Operating Cost per Year	\$7,549,000
Estimated Annual Revenue	\$8,568,000 (\$170/month fee for twice per week collection)
Time to Recoup Initial Investment	~11 years

Option 2-City Competes with Private Haulers:

Estimated costs for Option 2, assuming 436 commercial accounts:

Initial capital investment

- Equipment:
 - \$840,000 (4 collection trucks) = \$168,000 per year (5-year lifespan)
 - \$80,000 (1 container truck) = \$16,000 per year (5-year lifespan)
 - \$392,400 (436 dumpsters) = \$56,058 per year (7-year lifespan)

Total Equipment Costs: \$240,058 per year

Annual reoccurring expenses

- Salaries: \$150,000/year (5 drivers)
- Administration: \$76,000/year
- Maintenance: \$181,700
- Tip Fees: \$436,000/year

Total Annual Reoccurring Expenses: \$843,700 per year

Option 2	
Startup Capital Cost	\$1,312,400
Total Operating Cost per Year	\$843,700
Estimated Annual Revenue	\$889,440 (\$170/month fee for twice per week collection)
Time to Recoup Initial Investment	~2 year

Option 3-Franchise Fee:

Estimated costs for Option 3 are administrative in nature and could be absorbed by current staffing levels. The estimated revenue for this option will depend on the fee structure for franchise licenses. Listed are two examples of potential fee schedules and total revenue estimates.

- \$2,000/year/license, Estimated total revenue \$10,000/year
- 2% of company's annual revenue/year, Estimated total revenue \$50,000/year

Option 3	
Startup Capital Cost	NA
Total Operating Cost per Year	Negligible
Estimated Annual Revenue	\$10,000-\$50,000
Time to Recoup Initial Investment	Immediate

Residential Solid Waste Collection

Another alternative for solid waste collection is to convert the current general fund system to an enterprise system for residential collection services. Enterprise funds are self-sustaining funds supported by user fees to account for the management of the City's solid waste management program. These user fees pay for daily operations, maintenance costs, and current and future capital funding.

An enterprise program would establish monthly fees for solid waste services that would be billed on the current water and sewer service bill. Residents of Buncombe County currently pay \$14.00-\$16.50 per month for limited solid waste collection (municipal solid waste and recycling only) services when compared to the City's more comprehensive solid waste collection and recycling services which include: weekly solid waste collection, bi-monthly brush collection, seasonal loose leaf collection, weekly white goods (i.e., appliance) collection, weekly bulky item collection, and every other week recycling collection. The following are estimates for enterprising the City's solid waste and recycling services.

Proposed fees:

Municipal solid waste fee	*\$15.48/month
<ul style="list-style-type: none"> • Weekly waste collection • 1 free roll cart • Bi-monthly brush collection • Seasonal loose leaf collection • Weekly white goods collection • Weekly bulky item collection • Dead animal collection 	
Recycling fee	\$2.56/month
Combined total fee	\$18.04/month

Additional fees:

Extra trash cans \$3.50/month/can

*NOTE: \$33/ton tip fee: \$14.73
\$42/ton tip fee: \$15.48

- Analysis

- Following are key issues for consideration:

- Municipalities providing commercial collection services are uncommon.
- Options 1 and 2 would require high initial capital investments.
- Anecdotally, governments which provide commercial services are subsidized.
- Asheville currently has a highly competitive commercial waste hauling sector that offers the consumer multiple choices when selecting a private waste hauler.
- Reimbursements to commercial companies for loss of business would be substantial.
- Option 1 would result in critical loss of business among private waste collection companies.
- Option 1 would likely result in lawsuit(s).
- Option 2 assumes 10% market share, which is not guaranteed.

In conclusion, based upon my preliminary analysis, to implement Option 1 or 2 would require considerable capital, political will, and risk. Furthermore, research into current commercial operations by NC municipalities leads me to believe that no profitable public business plan exists. More research would be required if further interest in the options exists.

There was discussion of how the Commercial and Enterprise Options for Solid Waste Collection item was being brought to Council's attention. In summary, Council was not interested in pursuing commercial collection services or converting the current general fund system to an enterprise system for residential collection services. Councilwoman Cape did think the City should be open to looking at what we are doing with waste in our community and how, on a regional basis, other communities are dealing with their waste management.

RESOLUTION NO. 08-103 – RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE ADMINISTRATIVE PROCEDURES FOR CO-SPONSORSHIP EVENTS AND THE APPROVAL OF \$175,102 IN FUNDING FOR EVENTS FROM AUGUST 1 THROUGH DECEMBER 31, 2008

- Ms. Diane Ruggiero, Superintendent of Cultural Arts, said that this is the consideration of a resolution authorizing the City Manager to approve the administrative procedures for co-sponsored events and the approval of \$175,101.16 in funding for the following events from August 1 through December 31, 2008 (without equipment and sanitation): Pritchard Park, Holiday Parade, Downtown After 5, Goombay, Shindig on the Green, Midday Musicals, Organicfest, Rockin the River Raft Race, Urban Trail Block Party, Asheville Greek Festival, CROP Walk, Smoky Mountain Toy Run, Buddy Walk, Asheville Citizen-Times Half Marathon, Thomas Wolfe 8K Road Race, Hard Lox Jewish Food Festival, WNC Run/Walk for Autism and Professional Cycle Races, Oasis Shrine Parade, Festival in the Park, AIDS Walk, Super Hero Race, Run for the Horses, Halloween Dog Festival, and End of Summer Family Fish Fry.

The City of Asheville co-sponsors events that benefit local non-profit organizations and enhance the community with public events, parades, and festivals. The City of Asheville co-sponsors public events, parades, and festivals that benefit local non profit organizations and enhance the community.

Going forward, the City of Asheville will issue a Request for Proposal (RFP) in the Fall of each year for organizations and individuals wishing to apply for a co-sponsored event. The RFP clearly outlines the program criteria and expectations. Prior to the RFP deadline, the City of Asheville will conduct a series of workshops to assist potential applicants through the application process.

Staff will review the applications, followed by the Recreation Board who will evaluate, score and rank all applications and make the final recommendation to City Council. Events with a high ranking will receive co-sponsorship support up to the amount approved by the City Council. After each event, applicants receiving co-sponsorship will submit an event evaluation report which will be considered in the event they should apply for support in the future.

For calendar year 2008, the cost of proposed co-sponsored events was \$312,000 of in-kind goods and services (increased by \$67,000 to include support for the Holiday Parade and Friends of Pritchard Park).

Staff recently obtained additional event information from the remaining co-sponsorship applicants for 2008. Each event was scored from highest to lowest based on the event criteria presented to Council on April 5, 2008.

By providing only essential services such as Police, Fire and Rescue while also continuing to waive permit fees for event organizers, the City can continue to support a large number of events that help meet City Council goals.

Provide essential services only

Non-essential services include:

Sanitation – Currently, sanitation services are only offered to City co-sponsored events. Other festival and events throughout the City either clean up their festival area with volunteers or outsource the service to an outside agency at a cost lower than what the City can offer for the same service.

Organizations that do not comply with event clean-up will be issued a citation and would risk future City co-sponsorship support.

Equipment – The limited equipment provided by the City through co-sponsorship (i.e. tents, stage, tables, chairs, etc.) is in poor condition and quickly being removed from availability. The Department's funding to replace this equipment has been removed from the Fiscal Year (FY) 2008/09 budget.

By discontinuing this service for co-sponsorship, the City can retain the limited supplies for internal events and eliminate labor cost for equipment delivery and set-up.

Pros:

- These services do not affect all of the events;
- The cost to outsource these services is minimal and; in some cases, optional;
- By outsourcing services, the City helps to support local businesses who provide similar services;
- This process is relatively easy to administer and continue.

Cons:

- Organizers will receive reduced support from the City;

Parks, Recreation and Cultural Arts staff will also work with the organizers of the Oasis Shrine Parade to either reconfigure their event or suggest alternative funding resources to reduce the overall cost to the City.

Regarding the fiscal impact, the elimination of non-essential services reduces the cost of in-kind goods and services from \$240,932.48 to \$175,101.16 with a net savings of \$65,831.32.

City staff recommends City Council adopt a resolution authorizing the City Manager to consider the administrative procedures and funding proposal for co-sponsored events in preparation for FY 2008/09.

Throughout considerable discussion, Ms. Ruggiero responded to various questions/comments from Council, some being, but are not limited to: who pays for the police at Civic Center events; how often are supplemental police officers required from a safety standpoint for Civic Center events and who pays for that; what was the criteria of public purpose used in the rating procedure; what is the bulk of the cost of parades; has staff talked to the event organizers of Goombay of this process of not providing non-essential services and will staff work with them to find other organizations to supplement the City's cost reduction; and how much money will be spent on co-sponsorship of festivals from January-June, 2008.

Councilman Mumpower didn't argue with festivals, but felt the City should first fund eliminating the open air drug market from a safety standpoint and then he could support entertainment.

Councilwoman Cape moved to suspend the rules and take formal action at this meeting. This motion was seconded by Councilwoman Jones and carried unanimously.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Cape moved to adopt Resolution No. 08-103. This motion was seconded by Vice-Mayor Davis and carried on a 4-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

Mayor Bellamy could not support the motion in that she didn't think all festivals were treated fairly. She noted that there was no cost reduction for the Pritchard Park events nor the Holiday Parade - both which are funded their requested amount. The two events (Downtown After 5 and Goombay) which rated 100% were reduced by the elimination of non-essential services. Ms. Ruggiero responded that the only reason why staff did not pursue the price reductions on the Pritchard Park events or the Holiday Parade was that they were approved by City Council independently of this process. At Council's direction, she said she would be happy to pursue cost reductions for those two events as well.

Councilman Mumpower moved to instruct staff to continue exploring cost-saving opportunities with all the identified festivals. After a brief discussion, Councilman Mumpower withdrew his motion.

Councilwoman Jones moved that the events that scored in the top 10% of the ranking, receive additional support of the City (by giving them their full request).

Councilman Russell liked the original motion in that he liked government doing things for people who can't do for themselves.

In response to Councilman Russell, City Attorney Oast said that it was his understanding that what Council adopted by a 4-2 vote remains in place and if Councilwoman Jones' motion passes, it would be in addition to that adopted motion.

Mayor Bellamy said that when she asked that we re-evaluate what was considered last week, because of the limited amount of festivals which would be co-sponsored, staff did a ranking independent of Council, she asked that for the groups who put forward their applications would be funded through acknowledgement of the ranking. But, staff is saying that they did an across the board cost reduction criteria that the City will not provide any non-essential services. That was not what she intended and she didn't support it. She was pleased that more festivals are being co-sponsored, but didn't like how it happened - a straight across the board cut. She felt that the two events that rated 100 (Downtown After 5 and Goombay) met all the City's criteria but were still given cost reductions.

Ms. Ruggiero said that because every event is completely unique, it was challenging to factor in the percentage, i.e., if the event scored an 80%, what is 80% of the funding for the event going to look like - and that became very subjective. In an effort to do their best to be fair to all events, they went back to what the City provides to co-sponsorship events. If there is an event that Council would like to see funded differently, she asked that Council vote on that event independently and they will work with those event organizers. They were looking for a procedure that they could take forward and follow year after year.

The motion made by Councilwoman Jones died for lack of a second.

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Closed Session

At 5:10 p.m., Councilman Mumpower moved to go into closed session for the following reason: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: State of North Carolina, County of Buncombe, City of Asheville, Bonny Wardlaw, Asheville Civil Service Board, City Council of the City of Asheville, Peter M. Hall, et al (Ridgefield Business Park annexation area), and Asheville Endocrinology Consultants, P.A., et al (Airport Road annexation area) - The statutory authorization is contained in G.S. 143-318.11(a) (3); and (2) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee - The statutory authority is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act - The statutory authorization is contained in G.S. 143-318.11 (a) (2). This motion was seconded by Councilman Russell and carried unanimously.

At 5:55 p.m., Mayor Bellamy recessed the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting.

NON-PROFITS

Councilwoman Jones introduced Ms. Ann Von Brock, Vice-President for Planning and Community Investment with the United Way of Asheville and Buncombe County, and Past President of the N.C. Center for Non-Profits, who briefed and presented Council on an article from the N.C. Center for Non-Profits entitled "What Non-Profits Can and Cannot Do in an Election Year." She also reviewed with them information regarding a summary of the North Carolina Lobbying Law. She then reviewed nine frequently

asked questions about the 501 (h) election, those being (1) what is a 501 (h); (2) why should a 501 (c) (3) election 501 (h) status; (3) how does a 501(c) (3) charity elect 501 (h) status; (4) will foundations suffer consequences if their grantees exceed lobbying limits; (5) under 501 (h), what is lobbying; (6) how much can a charity spend on lobbying under 501 (h); (7) will election of 501 (h) status increase the likelihood of an IRS audit; (8) will our paperwork increase if we elect 501 (h) status; and (9) what about losing a tax exemption for excessive lobbying expenditures under 501 (h).

On behalf of City Council, Mayor Bellamy thanked Ms. Von Brock for her informative presentation and urged the public to contact www.ncprofits.org for additional information.

PLANS & REPORTS IMPLEMENTATION STATUS

Mayor Bellamy said that as a result of comments about plans sitting on shelves and not being implemented, she placed this item on the agenda. Mayor Bellamy suggested, and it was the consensus of Council, to include prominent reference in staff reports how the actions relate to adopted plans, so people know that their time and investment as volunteers who have helped create the plan and the taxpayers who paid for the plans see how the plan is being implemented.

Councilman Mumpower felt that we do create elaborate planning documents filled with a lot of data. The percentage of the plans are fantasy plans and they are not based on realistic funding abilities. He believed that the majority of information in our planning documents is used occasionally.

Councilwoman Cape felt it also comes down to a willingness on this body's part to take those plans into consideration when votes are taken and it would be helpful to have those plans in front of Council when decisions are made.

Mayor Bellamy said that the following is the status of various plans and reports adopted since 2005:

- 10-Year Plan to End Homelessness (adopted 1-11-05)

The Homeless Initiative Advisory Group completed strategic planning process for 2008 and is working to implement identified action steps. Additionally, the Homeless Coalition voted to become an integral part of the Homeless Initiative – their meetings have action groups around housing, health, and services and the chairs of the Homeless Coalition sit on the Homeless Initiative Advisory Group.

Staff applied for and won a \$10,000 technical assistance grant for 10-Year Plan Implementation. The funds are being used for research to evaluate the homeless service system and for improved public information and outreach. Work is expected to be completed by June 30, 2008.

SOAR demonstration project expected begin July, 2008 (SSI/SSDI Outreach, Access, and Recovery). A partnership between Buncombe County, the City of Asheville Homeless Initiative, Western Highlands, and Mission Hospitals as well as local non-profit service agencies has led to the commitment of funds and resources to the project.

Homeless Information Management System (HMIS) will be used by homeless service agencies receiving CDBG Funding and Buncombe County Funding. This will increase ability of the Homeless Initiative to understand characteristics, needs, and outcomes of the homeless population.

- Buncombe County Hazard Mitigation Plan (adopted 3-22-05)

The City of Asheville's adopted Hazard Mitigation Plan was submitted along with the other six local government units in Buncombe County to the State of North Carolina and the United States Department of Homeland Security. The unified county mitigation plan was approved by the state and federal agencies and is scheduled for review again in the year 2010.

The City of Asheville is required to adopt a Hazard Mitigation Plan by State and Federal law. Local governments in Buncombe County have recognized the importance of working cooperatively during emergency situations. Seven governmental entities in Buncombe County jointly developed a multi-jurisdictional hazard mitigation plan. Each of the seven local government units adopted the unified county-wide plan.

Hazard mitigation is defined as "sustained action that reduces or eliminates long term risk to people and property from natural hazards and their effects". The Federal Mitigation Act of 2000 and North Carolina Senate Bill 300 require local jurisdictions to have prepared and adopted a Hazard Mitigation Plan in order to be eligible for certain types of disaster assistance for both Presidential and State-declared disasters occurring after November 1, 2004.

- Housing & CD Strategic Plan (adopted 4-26-05)

The City and the Asheville Regional Housing Consortium are on track to meet most of the goals of this plan by 2010, despite cuts in the level of federal CDBG and HOME entitlement grants. Through fiscal year 2008, 623 housing units were assisted (including new construction, rehabilitation, homeownership assistance and rent assistance), which is 56% ahead of target.

- River Redevelopment Plan (adopted 7-26-05)

The River Redevelopment Plan is a planning tool adopted by City Council in 2005 and based on ideas established in the Wilma Dykeman Master Plan. The city's River District, an established zoning district, contains over 873 acres, an area more than double the size of the CBD. The area is largely floodplain/floodway; as a result there are development constraints that provide limitations on where and how development can occur in the River District and other floodplain areas of the City.

The River Redevelopment Plan concentrates on three different redevelopment areas: Biltmore Village, East Swannanoa River, and French Broad River. The plan outlines 12 areas of action, including: acquisition of floodway properties, demolition of flood damaged structures, pursue grant opportunities to implement the Dykeman Plan, continue to implement the Riverway project, and other action steps. Numerous city departments and outside agencies are involved in implementation of the recommendations. Highlights of accomplishments to date include the acquisition of three of four properties in the East Swannanoa area, demolition of flood damaged building in Koon Development area, greenway development in the French Broad area, and extensive hydraulic analysis of the river areas. Negotiations continue for other key acquisitions of property, and the City and other partners continue to discuss methods to focus resources and manpower on implementation of the Dykeman Plan.

- Downtown Parking Action Plan (adopted 11-14-06)

The Downtown Parking Action Plan was adopted by City Council on November 14, 2006. Council approved thirteen different action tasks. Nine of these tasks have been completed or determined not to be feasible. We are currently working on locating public parking at 51 Biltmore Avenue, Rankin Avenue and two locations on Haywood Road. All of these projects are in varying stages of development. Staff will be coming forward to Council in August to recommend amending the parking action plan to include some other items such as developing a downtown shuttle.

- Civic Center Action Plan/CIP (adopted 12-12-06)

The Civic Center Action Plan/CIP adopted on 12-12-06 is well underway. Staff is committed to ensuring timely completion of current and future projects. Phase I of the Arena Roof Study is nearing conclusion. Projects funded for Fiscal Year 2007-08 include Stand by Transformer, Smoke Hatches, and Fire Alarms. All are in progress, with anticipated completion August - October. Projects slated for Fiscal Year 2008-09 include Arena Floor Seating & Storage and Portable Stage. With the Civic Center Commission's guidance and approval, staff continues to fine tune the Action Plan.

- WECAN Citizens Master Plan (adopted 1-22-08)

Mountain Housing Opportunities (MHO) has provided infill development that supports the WECAN Plan. Additionally, MHO received two grants from NCDOT to provide streetscape improvements to Clingman Avenue from Hilliard Avenue to the bridge. The City funded the remainder of the project in Fiscal Year 2006-07. A round-about gateway is designed for the intersection of Clingman Avenue and Depot Street. MHO held public meetings on the design. MHO will be completing the design and obtaining all permits. The City plans to bid the project and complete construction of the improvements.

- Comprehensive Bicycle Plan (adopted 2-26-08)

The bike plan was adopted by City Council in February 26, 2008. We are currently implementing three projects from the plan including a climbing lane on Lexington Avenue, share the road markings on South French Broad Avenue and downtown bike lockers. We will continue to coordinate with other agencies as funds and or grant opportunities become available.

Staff provided this for information and further direction only.

PARK SEX OFFENDER BAN UPDATE

Vice-Mayor Jan Davis, Chair of the City Council Public Safety Committee, asked Police Chief Hogan to give an update to

City Council on the park sex offender ban.

Police Chief Hogan said that the City Council passed Ordinance No. 3428 effective December 12, 2006, and via the Public Safety Council Committee, staff has been asked to provide a follow-up to this ordinance adoption.

At the January, 2008, City Council strategic planning retreat, Council adopted four priority areas of interest. One of the four areas was "Safe: Asheville will be one of the safest and most secure communities when compared to similar cities." Specific to that area of prioritization, City Council has stated that its intent is to maintain a park system that is meant for the peaceful enjoyment of children and other citizens. Recognizing that there are more than 200 registered sex offenders residing in Buncombe County, it is the interest of the City to reduce opportunities for sex offenders to make use of park and recreation for improper purposes.

Developments:

- A list of known predators and sex offenders is maintained by the Buncombe County Sheriff's Office and this information, to include a photograph, is now shared with the Asheville Police Department due to technology advances with Criminal Justice Information System.
- With this additional information, offenders can be charged with a felony if discovered that the sex offender has failed to register and is discovered in a city park or any other location in the city.
- The City hired a park ranger earlier this year, assigned to Pritchard Park. This position has bolstered the overall level of staffing (two positions overall) afforded to park management issues and has greatly impacted the overall level of safety and order in Pritchard Park.
- There has been one arrest to date since the adoption of this ordinance.
- The Town of Woodfin previously adopted a similar ordinance that has been legally challenged. The N.C. Court of Appeals upheld the Woodfin ordinance on the grounds that the ordinance was not an ex post facto law (i.e., a law that changes the punishment of a crime after the crime was committed) nor did the ordinance violate the sex offender's due process rights. One of the Court of Appeals' Justices dissented and the case is currently pending before the North Carolina Supreme Court.
- Park signage is currently being installed throughout Asheville's park system.

There is no action necessary at this time. This staff report is meant for information purposes only.

INTERNET PREDATORS DETECTIVE UPDATE

Vice-Mayor Jan Davis, Chair of the City Council Public Safety Committee, asked Police Chief Hogan to give an update to City Council on the internet predators detective update.

Police Chief Hogan presented the following updated information pertaining to child pornography and internet predator investigations and initiatives by the Asheville Police Department.

The Asheville Police Department has entered into memorandum(s) of understanding with the FBI and NC State Bureau of Investigation to assist in various computer crimes related investigations. Detective Johnson is currently working with the following task forces:

- Joined the FBI High-Tech Computer Crimes Task Force (HTCCTF) which investigates cases of child pornography. One Asheville-based case has already been referred to Detective Johnson.
- Joined the NCSBI Internet Crimes Against Children (ICAC) Task Force. This group works to identify, target, apprehend, and prosecute sexual predators whose purpose is to exploit children or engage in sexual activity with children through the use of computers and the internet.
- Joined the FBI Cyber Crime Task Force which investigates criminal cases and national security threats when: computers and high technologies are the target of the crime, computers and high technologies are the principal instrument of the crime, or computers or high technologies are used to facilitate violations of criminal laws or breaches of national security.

As a result of this work, Detective Johnson has indicted two individuals in federal court on child pornography charges. Neither of these cases has been adjudicated, and we cannot publicly discuss them until prosecution is complete and a press release is issued by the federal press office. In one case, there were more than 5,000 images screened and 118 of these images have already been identified (victims) and prosecutions pursued.

Detective Johnson will also be requesting prosecution by the federal government on a third case where a cellular telephone salesperson at the Asheville Mall was using a cellular phone to take pornographic photographs of minors. This person

was also furnishing alcohol and illegal drugs to minors that he could convince to come to his home. Detective Johnson continues to assist the NCSBI and BCSD with investigations targeting internet predators and individuals possessing and trafficking in child pornography.

On April 11, 2008, Detective Johnson completed the Seized Computer Evidence Recovery Specialist (SCERS) training at the Federal Law Enforcement Training Center.

Detective Johnson was also scheduled to attend the NC State Internet Crimes Against Children (ICAC) training on May 5-9, 2008. We had a preliminary position in this training, but have since been notified that Detective Johnson was not seated in the class. Detective Johnson cannot fully participate in the NC ICAC Taskforce until he completes this training. We have sought this training for over one year and may possibly retain a training position in a June 9-12 ICAC class that is being hosted in Asheville.

On February 21, 2008, Melissa Williams and Capt. Splain met with Mr. Grier Weeks of PROTECT – National Association to Protect Children. Mr. Weeks was concerned that APD was not actively engaged in internet predator investigations. It was explained to Mr. Weeks how we were participating in Federal child pornography investigations, but that we had not yet received training from the NC ICAC and could not fully participate in that taskforce until Detective Johnson had received ICAC training. APD is also a full-service police department and Detective Johnson's expertise is utilized in internet fraud / scam investigations, white-collar crime investigations, and most other investigations where digital media is used in the commission of a crime. With only one trained investigator, we cannot solely conduct child pornography / internet predator investigations and ignore all others. Mr. Weeks was very understanding and has offered some other training and contacts within the ICAC specialty for Detective Johnson to take advantage of.

On April 5, 2008, the Asheville Police Department co-sponsored and participated in the Leadership Asheville (CyberBusters Team) Internet Safety Symposium. This symposium was held to inform parents, educators, and concerned citizens about the dangers of the internet and issues such as Cyber-Bullying. The program introduced the I-SAFE curriculum which assists parents and educators with protecting children who use the internet. Approximately 150 adults attended the program at A-B Tech's Ferguson Auditorium.

As of May 9, 2008, Detective Johnson is assisting other APD Detectives with three new cases that involve child pornography and other sexual predator offenses. He is using his specialized training to mirror seized hard drives and extract digital information pertaining to these cases. Detective Johnson then creates reports for the prosecution of these individuals.

Vice-Mayor Davis said this is a great opportunity to be involved in other criminal activity with this detective. This is time and resources well spent. He also thanked the Asheville Police Department and the Buncombe County Sheriff's Department for working closely together.

In response to Councilwoman Jones, Police Chief Hogan said that he would like to see a partnership with the two schools, the Police Department and Sheriffs Department on the I-SAFE Program and he would be happy to pursue that partnership.

In response to Councilwoman Jones, Police Chief Hogan said that he would ensure the necessary ICAC training for Detective Johnson gets completed soon, and if necessary, seek assistance from Mr. Weeks.

Mayor Bellamy appreciated the Police Department's investment of dollars in the I-SAFE Conference, as they saw a need to support that initiative. She also thanked the Police Chief for sending staff to Knoxville, Tennessee, to reach out to best practices nearby in order to see what their initiatives are on child predators and internet safety. She noted the good relationship between the Police Department and Sheriff's Department in sharing resources and working together.

LOCAL ACTION ON ILLEGAL IMMIGRATION

- Councilman Mumpower presented Council with the following PowerPoint presentation regarding local action on illegal immigration:

"Why Local Action? (1) Federal and State governments continued to be paralyzed; (2) Most problems are solved at the local level – as evidenced by our own history with the civil rights movement; and (3) Contrary to popular perception, law enforcement does have the authority to enforce Federal law – the real hurdle is motivation and support.

Why Am I Am Persisting on This Issue? (1) Illegal immigration represents the greatest law breaking scheme in America's history; (2) Illegal immigrants are the primary source of drugs distributed by young black males and purchased by white everybodies through our City's open air drug markets; and (3) Our community has lost the incentive to uplift our own due to the ready availability of high quality illegal labor. Why else would so many of us accept a 50-70% physical drop out rate for minorities in our High

School and an even higher 'mental drop out rate' that assures the failure to bridge so many of our young people to the 'American Dream'?

Why Am I Persisting on This Issue? (1) I am disturbed by the institutional support for illegal immigration that occurs in our community (a) A local and national Chamber of Commerce that, per their policies, is more concerned with convenience than supporting the law; (b) A community hospital system that spends untold dollars with minimal protest on free services to illegal immigrants who are able to use the emergency room as their source of primary medical care due to unfunded Federal mandates; (c) A county and city school system that is spending \$8,000 to \$15,000 per year on the education of the children of illegal immigrants; and (d) A county government that is building a parking garage with a majority of workers who do not speak English.

Why Am I Persisting on This Issue? (1) A county health department and social services network that routinely accepts false identification and provides substantial and expensive services to illegal immigrants; (2) Employers who flaunt indifference to the legal status of their workers and thus create an unfair playing field for employers who do play it straight; (3) A local United Way and other donor supported non-profit agencies that provide primary services to any and all non-English speaking people and thus helps support the flood of illegal immigrants crossing our border while limiting their capacity to care for our own citizens; (4) Churches who actively support illegal immigrants; and (5) A police administration that takes no meaningful action on illegal immigration.

It is not about race, the Hispanic people, or any other color issue...it is simply about those who come into our country illegally and those who illegally employ them.

There Are Other Reasons... (1) Public safety – no rules, no ID, and no accountability; (2) At best, illegal workers do only 25% of the "unwanted" jobs in this country – just enough to keep wages suppressed for a host of others jobs; and (3) Illegal immigration is a form of cultural terrorism – when people loose faith in the rule of law they stop playing by the rules – that is the foundation for a culture of selfishness and self-destruction...

What Is The Law? (1) Crossing our borders one time is a misdemeanor – more than once is a felony; (2) The use of false ID by an illegal alien is a felony; (3) Knowingly employing an illegal alien is a felony; (4) The only distinction between a misdemeanor and a felony offense is the length of potential jail time; any crime punishable with up to one year's imprisonment is a *misdemeanor*, while an offense punishable with more than one year is a *felony*; and (5) Courts have agreed that state and local police have inherent authority to enforce all federal immigration laws against violators, whether the violation is a civil or a criminal offense

What Can We Do – A Five Point Plan (1) Strengthen our employer education efforts on E-Verify system; (2) Send a resolution to our state and federal representatives requesting that they begin enforcing existing laws and grant local authorities greater enforcement support and flexibility; (3) Request that our city attorney monitor federal and state legislation affecting local government ability to respond to illegal immigration concerns and make ongoing recommendations on potential initiatives; (4) Instruct our City Manager to initiate APD participation in 287(g) of the Immigration and Nationality Act allowing for the appointment of at least two local officers with direct immigration enforcement powers; and (5) Explore city regulation of day labor agencies by requiring confirmation of citizenship for temporary employment.

Mexico's Illegal Immigration Laws (1) All foreign visitors must have the means to sustain themselves economically and not be a burden to society; (2) They can have no criminal record; (3) There is a government record of each foreign visitor; (4) Foreign visitors are banned from interfering in internal politics; (5) Foreign visitors who enter under false pretenses are imprisoned or deported; and (6) Those who aid illegal immigrants are fined and/or imprisoned.

Stepping forward through our limits...(1) I see illegal immigration as one of our culture's essential issues; (2) I believe we should look beyond what we are not sure we can do – to what we might can do; and (3) The state and federal example of complacency and paralysis is a model of disgrace.

The Responsibility - "My position on illegal immigration? It's illegal." – the late Congressman Sonny Bono"

Councilwoman Cape spoke with representatives at Mission Hospitals. She said that Mission Hospitals has been on the record for a long time about the need to address the uninsured issues in this community and how it's affecting them. They are hindered by the Federal Emergency Medical Treatment and Active Labor Act that requires Mission and all hospitals to treat anyone who presents themselves at the Emergency Room. She also talked to Bill Stafford, who works under John Creighton with the County, and they have said that American South, who is the contractor on their parking deck, actually verifies that every worker has an I-9 Form signed. She would not assume that everyone who speaks Spanish is undocumented or illegal. She has many concerns about some of the issues raised in suppression of wages and how we take care of people who come here. She too would like to see the businesses and employment on a level playing field. Illegal immigration is a complicated issue and while there are things that we can do locally, it's at a scale that needs to be handled by the federal government.

Vice-Mayor Davis said that regarding the City's participation in the 287 (g) program, he felt sure that once the Buncombe County and the Henderson County Sheriff's Departments have reached agreements and are trained, he felt the Asheville Police Department will enjoy the same good relationship as currently exists. He said that he would place an update of the 287 (g) program on the City Council Public Safety Committee's agenda.

Councilman Mumpower said he is talking specifically about people who are here illegally. In terms of the County parking garage, he made a request for information but he does not believe the information given to Councilwoman Cape. He said he doesn't blame people from crossing the border, but he blames the employers, the people who side-step the law - they are the ones are trumping the whole process. We should not better their lives by destroying our own. He felt we have lost our incentive to take care of our own people. If both of the Sheriffs in Buncombe and Henderson counties feel there is merit to the 287 (g) program, why shouldn't Asheville participate.

Throughout discussion, Police Chief Hogan responded to various questions/comments from Council, some being, but are not limited to: does the City have more law enforcement officers than Buncombe County; if someone is arrested and they have no documentation, what happens; explanation of the 287 (g) program; what will it take to have a 287 (g) program for municipal governments; and do you feel that the City of Asheville needs a 287 (g) program or is Police Chief Hogan supportive of Buncombe County going the point.

Mayor Bellamy said that she just came back from a trip to Washington where she talked to Senator Dole's staff about the City's federal legislative agenda. She then read the following e-mail dated May 19, 2008, from Constantine Hingson, General Counsel in the Office of Senator Elizabeth Dole: "I just left a message on your voicemail regarding the 287 (g) program you and Mr. Bacus discussed this afternoon. This email will give you an overview of the program. Please do not hesitate to contact me with any further questions on this or any other matter. My direct line is ... Senator Dole has been working with federal officials and sheriffs across our state to address the issue of immigration enforcement. As a result of her work, North Carolina is the first state in the nation to have a statewide partnership plan for sheriffs to coordinate with Immigration and Customs Enforcement (ICE), part of the U.S. Department of Homeland Security. This plan will ensure that all North Carolina sheriffs can readily access, if they choose, the tools to identify and help process undocumented aliens who have self-identified themselves by committing crimes, such as drunk driving and gang- and drug-related activities. The partnership program does not change how law enforcement officials go about their daily jobs enforcing laws in their communities. Once an individual self-identifies him or her self by committing a crime, at that time the tools would be used to access that person's criminal history and immigration status. 287 (b) refers to the section of the Immigration and Nationality Act that provides for provision of federal resources to state and local law enforcement to carry out immigration related duties. The North Carolina program is being implemented by a steering committee made up of sheriffs from around the state. The steering committee includes Sheriff Van Duncan of Buncombe County. Participation in the 287 (g) program does not cost local governments above and beyond what they already pay their deputies. Federal funds are used for both training and equipment. Senator Dole has fought and continues to strongly advocate for funding for ICE and implementation of 287 (g) agreements."

Mayor Bellamy said that while in Washington, she advocated for our federal legislative agenda. She said that illegal immigration is a very contentious issue for our community and she hoped that we can look at other ways to address this issue. If we are really concerned about employment, the number of contractors that the City of Asheville utilizes is outstanding and it would behoove us to look at this issue creatively. We need to empower people in a way to bring up our community as a whole. She said that Vice-Mayor Davis will schedule this item on the Public Safety Committee agenda to look at the 287 (g) program and other items raised at this meeting.

UPDATE ON ANNEXATION LEGISLATION

- City Attorney Oast said that this is a brief report on recent legislative developments on annexation.

As Council knows, the House Select Committee on Annexation has proposed a one-year moratorium on all city-initiated annexations and all petitioned satellite annexations. This moratorium, as drafted, would apply even to those annexations that are in some stage of judicial review. The table below identifies the areas with respect to which judicial review is pending, and indicates the legal status of each review process.

Some Council members have inquired about the financial impact on the City of delaying the effective date of these annexations. While he cannot provide a detailed analysis, he provided Council with copies of the Financial Plan from each Services Plan that includes the areas with respect to which judicial review is pending, with the particular areas highlighted. The Finance Department may be able to provide a more detailed analysis or respond to specific questions.

The House Select Committee was originally scheduled to meet on May 14, and he had planned to attend since he was

going to be in Raleigh anyway. The meeting was rescheduled for May 19, and he tried to get information on that Committee meeting. He will monitor that. The League of Municipalities is following this issue closely, and the N.C. Chapter of the American Planning Association has also taken a position.

CITY OF ASHEVILLE ANNEXATIONS CURRENTLY UNDER JUDICIAL REVIEW

AREA	YEAR ADOPTED BY COUNCIL	STATUS
Huntington Chase	2002	City won at trial and Court of Appeals; petition for review pending in Supreme Court (decision possible in mid-June)
Ridgefield	2005	City won at trial; oral argument in Court of Appeals May 14, 2008; pending decision
Airport Road	2005	City won at trial; oral argument in Court of Appeals May 14, 2008; pending decision
Biltmore Lake	2007	pending trial in Buncombe County Superior Court

There are currently no annexations underway or areas that staff is reviewing for recommendation as to possible annexation. With respect to the areas listed above, considerable staff time and resources have been expended not only in evaluating the areas for annexation, but also in defending the legal challenges (including fees for outside counsel). Additionally, staff has invested some time and energy in preparing to begin serving the areas once they come into the City.

Mayor Bellamy said that she has spoken with Representative Goforth, co-chair of the House Select Committee on Annexation, and let him know that the legislation would be too punitive to the City of Asheville. She felt that it was unfair because Asheville has done all they were supposed to do and we have won on each level. Mayor Bellamy asked for, and received, Council's consensus to advise our legislators that the Asheville annexations under judicial review should go forward.

City Attorney Oast said that he would draft a resolution opposing the annexation moratorium and place it on the next formal meeting agenda.

In addition, City Attorney Oast said that with regard to the Woodfin/Asheville annexation boundary, there is some concern that to the extent that this boundary adjustment may affect private properties that are occupied, they have asked us to see whether we can readjust the boundaries to take the private properties out and deal with them at a later time. He has been working with our Planning Department to see if we can reconfigure the boundaries to only deal with the state-owned properties. He said that the primary concern in doing this was to address the issue of wanting UNC-Asheville to be in Asheville. There was also the issue of the interchange at River Road and Broadway that right now there is a little confusion about who has jurisdiction. He felt he could draft legislation that takes care of those two main issues. There will be one piece of property that is owned potentially under consideration for development by UNC-Asheville but is not currently developed that would remain in Woodfin for the time-being. We may come forward with two options to deal with this - one of them creates some islands of unincorporated areas of Woodfin that are actually surrounded by Asheville. There is a deadline that is fast approaching and if Council is agreeable, he will move forward on that basis.

Mayor Bellamy said that we do want all of UNC-Asheville in Asheville.

City Attorney Oast responded to Councilwoman Cape when she asked if private property owners have a voice in this boundary agreement.

BOARD/COMMISSION APPOINTMENTS

Regarding the Civil Service Board, it was the recommendation of the Boards & Commissions to delay appointment of the Civil Service Board member until the legal outcome and to request the City Clerk contact the current Board member to see if she would remain on the Board until her replacement is appointed. City Council agreed.

Regarding the Recreation Board, there was only one applicant and it was the recommendation of the Boards & Commissions Committee to readvertise those vacancies. City Council agreed.

MISCELLANEOUS

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Vice-Mayor Davis was honored to accept on behalf of the City of Asheville two paintings from Jonas Gerard. Mr. Gerard is a very renowned artist and was honored on 20/20. Mayor Bellamy said that we will proudly display those paintings on the 2nd Floor of City Hall.

Mayor Bellamy briefed Council on her recent meeting at the Executive Branch at the White House with other elected leaders to discuss homeland security. There is a big push to get our communities ready. She explained several things regarding emergency preparedness that individuals can do. While in Washington, she also met with Senator Dole's office and discussed the City's federal legislative agenda, focusing on issues that are important to our community.

Councilwoman Cape felt that the City's website would be a great place to have information regarding emergency preparedness, with information on what to do in the case of an emergency, showing where the emergency centers are located, etc.

Mayor Bellamy also suggested the community go to the City's website and sign up for reverse 911 in case of an emergency. She also was very supportive of our website containing a financial crisis package and she has some information that she will give to staff to make that process easier.

Mayor Bellamy invited the community to the joint City-County Memorial Day celebration on Monday, May 26, 2008, at 1:00 p.m., in the City-County Plaza area.

Vice-Mayor Davis invited the community to the job fair on May 21, 2008, at Stephens-Lee Community Center, which is mainly geared for people who are challenged going back into the workforce.

Closed Session

At 7:25 p.m. Mayor Bellamy announced that City Council would continue their closed session.

At 7:36 p.m., Councilman Russell moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:36 p.m.

CITY CLERK

MAYOR